

**Board for Judicial Administration**  
**January 18, 2008**  
**Temple of Justice**  
**Olympia, Washington**

**Members Present:** Chief Justice Gerry Alexander, Chair; Judge Vickie Churchill, Member Chair; Judge Marlin Appelwick; Judge Rebecca Baker, Mr. Stan Bastian; Judge Leonard Costello; Judge Sara Derr; Judge Susan Dubuisson; Judge Deborah Fleck; Ms. Paula Littlewood; Justice Barbara Madsen; Judge Richard McDermott; Judge Larry McKeeman; Judge Marilyn Paja; Judge Christine Quinn-Brintnall; Judge John Schultheis (by phone); Judge Stephen Shelton; and Mr. Butch Stussy

**Guests Present:** Ms. Marti Maxwell, Ms. Sophia Byrd McSherry, Ms. Barb Miner, and Ms. Kathy Seymour

**Staff Present:** Ms. Beth Flynn, Mr. Doug Haake, Mr. Jeff Hall, Mr. Dirk Marler, Ms. Mellani McAleenan, Ms. Regina McDougall, Mr. Rick Neidhardt, and Mr. Chris Ruhl

Judicial Access to AOC Legislative Bill Tracker

Mr. Hall gave a presentation regarding the AOC Legislative Bill Tracker system. The system is available to judges on the Inside Courts Web site and Mr. Hall demonstrated various ways to use the system to track legislation.

Chief Justice Alexander called the meeting to order.

December 14, 2007 Minutes

**It was moved by Judge Dubuisson and seconded by Justice Madsen to approve the December 14, 2007 meeting minutes as written. The motion carried.**

Proposed Amendment to Interpreter Funding Conditions

In July 2007, the BJA approved the Funding Conditions/Payment Structure for the interpreter services funding appropriated by the 2007 Legislature. This project is now well underway and there is a need for refinement of the Funding Conditions/Payment Structure. Mr. Ruhl asked the Board to take action on the proposed revisions to the Funding Conditions/Payment Structure that were distributed in the meeting materials.

Some of the issues raised were that courts would like to have more flexibility in the pay rate for interpreters and they would like to acknowledge the higher skill

level of certified interpreters. In addition, because of the market, they would like to be able to choose the pay rate that would provide motivation for non-certified and especially non-registered interpreters to become certified or registered.

American Sign Language (ASL) interpreters are also a concern for the courts. The most desirable level of ASL interpreter is Specialist Certificate – Legal (SC:L) but there are only about eight SC:Ls in Washington State. Most of the ASL interpreters used in Washington courts have a Certificate of Interpretation/Certification of Transliteration (CI/CT) or comparable generalist certification. Not all SC:Ls can currently be accessed through DSHS or community centers for the deaf and hard of hearing.

Some courts are experiencing difficulty in obtaining certified interpreters in certified languages. To address that concern, it is proposed that if courts make a diligent search to obtain a certified interpreter but cannot obtain one, then AOC will reimburse the cost for a qualified interpreter through December 31, 2008.

Judge Costello asked what happens after December 31, 2008 if courts are still having difficulty finding certified interpreters. Mr. Ruhl explained that the courts would have to use a certified interpreter and would need to pay the travel costs or use a qualified interpreter at the court's expense. AOC's intention is to increase the number of certified interpreters.

Mr. Hall is concerned about how the Legislature will perceive AOC spending state dollars on qualified interpreters when certified interpreters are available throughout the state. Mr. Hall suggested courts use a certified interpreter via phone if necessary.

For the proposed revision regarding ASL interpreters, Mr. Hall cautioned against waiving the ASL/DSHS requirement because it goes against statute.

**It was moved by Judge Fleck and seconded by Judge Costello to accept the proposed changes with the exception of 1 a, 1 b and 6 c. The motion carried.**

**It was moved by Judge Fleck and seconded by Judge Paja that the BJA authorize 1 b for the limited time-period for 2008. The motion carried.**

#### Legal Financial Obligations Collections Report

Ms. Miner, King County Clerk, presented the "2007 Report to the Washington State Legislature on the Fiscal Impact of ESSB 5990, or Chapter 379, Laws of

2003 and SSB 5256, or Chapter 362, Laws of 2005” on behalf of the Washington State Association of County Clerks.

When the opportunity presented itself for the county clerks to take over the criminal Legal Financial Obligation (LFO) collection, they stepped up to the plate and asked to take it on. Overall, it has been very successful—between 2005 and 2007, LFO collections have increased 38.7%.

Since 2003, the \$3 million appropriation (that is divided between the county clerks and AOC) has not increased although the workload has increased substantially. Most counties subsidize the costs of LFO collection. As a result, the Supreme Court included an increase in LFO collection funding in their 2008 supplemental budget request.

#### JLARC Report on Office of Public Defense

Ms. Byrd McSherry from the Office of Public Defense presented the Joint Legislative Audit and Review Committee (JLARC) “Office of Public Defense (OPD) Sunset Review Proposed Final Report.”

JLARC is a bi-partisan legislative committee and one of their responsibilities is sunset reviews for agencies that have a sunset clause. Absent legislation, OPD will sunset effective on June 30, 2008.

The JLARC report indicates that OPD is meeting legislative intent, as expressed in statute and budget provisos. The report recommends repealing the sunset provision of OPD. In response to the report, OPD developed a bill that repeals the sunset clause and updates various portions of the OPD enabling statutes.

#### Water Work Group Status Report

Mr. Neidhardt presented the “Water Work Group Status Report” on behalf of Judge Kathleen O’Connor, Chair of the Work Group.

The Work Group is currently in the process of drafting legislation for the 2009 legislative session regarding new standards and procedures to replace the affidavit of prejudice for general water right adjudications. The Work Group wanted to make sure that they are moving in the right direction. The Work Group will submit its draft legislation to the SCJA and the BJA for their approval by this fall.

### Legislative Update

Ms. McAleenan reported that the BJA Executive Committee had a legislative conference call earlier this week. The list of positions taken during that meeting was included in the meeting materials.

The BJA Executive Committee decided to support the Office of Public Defense bill (HB 2588) and the OPD budget request. Representative Ross Hunter dropped a bill (HB 2926) to put the OPD sunset provision back in place.

The definition of a weapon bill (SHB 2177) is sitting in the House Rules Committee. The Senate version of the bill (SSB 6322) has a hearing at 10 a.m. on January 22 in the Senate Committee on Judiciary.

The Cowlitz County district court additional judge bill (SB 6252) is scheduled for a hearing in the Senate Committee on Judiciary on January 22 at 10 a.m. During a January 16 hearing, the Cowlitz County District Court administrator and Judge David Koss came up and testified in support of this bill.

The BJA made a decision not to go forward with the interpreter services bill (E2SHB 2176) this year but Representative Pat Lantz wanted the bill to move forward. Mr. Hall, Mr. Ruhl and Ms. McAleenan met with Representative Lantz yesterday and they agreed that Ms. McAleenan would work on an amendment to the bill to include state funding of interpreter services within appropriated funds.

### Washington State Bar Association

Mr. Bastian and Ms. Littlewood reported on the WSBA Board of Governors (BOG) meeting held in Olympia yesterday and today. Wednesday night they had a reception with the legislators and experienced the best turnout ever. During yesterday's BOG meeting, they had approximately 150 members of the local bar association meet with them for lunch. They also met with the Supreme Court this morning.

While in Olympia, Ms. Littlewood, Mr. Bastian and Mr. Mark Johnson met with Governor Chris Gregoire for about 45 minutes and talked about relevant issues.

The WSBA is working on the following:

- Offering forums regarding emerging issues relevant to the legal profession such as the Marriage and the Law Forums scheduled in March in Tacoma and in April in Spokane in conjunction with the Board of Governors meetings. In addition, a seminar at the Access to Justice Conference in June will address the generation gap and the changing face of the profession.

- Developing more theme-based Bar News editions. The April issue will focus on judicial selection and elections and the June issue will highlight legal technicians. In the summer, articles regarding professionalism, civility and ethics will be included.
- Met with the Governor's Chief of staff last week to look at the issue of how people of color can get into the pipeline for judicial positions. Some ideas discussed by the group assembled included:
  - Streamlining the judicial evaluation process for candidates.
  - WSBA possibly maintaining a list of attorneys interested in serving pro tem that would be available to the courts.
  - Offering training regarding what it takes to become a judge. The WSBA, the three law schools in the state, the minority bar associations and others will be discussing how best to offer such training.

#### Reports from the Courts

**Supreme Court:** Justice Madsen announced that they recently added the newest member of the Supreme Court—Justice Debra Stephens.

The Supreme Court will attend the State of the State address given by the Governor.

**Court of Appeals:** Judge Appelwick stated that Division 1 is in transition. Judge H. Joseph Coleman has officially retired and the Governor appointed Judge Linda Lau to his position. Judge William Baker's retirement is effective the end of February and they are anticipating an announcement regarding his replacement next week.

Judge Schultheis shared that Division III is at a real loss because of Justice Stephens' departure and they are awaiting the Governor's appointment. Retired Judge Philip Thompson is sitting in temporarily.

**Superior Courts:** Judge Costello said the SCJA has moved into the 21<sup>st</sup> Century in how they conduct Legislative Committee meetings. They are now able to track bills by computer and get reports by computer instead of in bound notebooks. While it is a short session, it is a very busy session.

Judge McKeeman stated Snohomish County Superior Court added a 15<sup>th</sup> judicial position. Commissioner Bruce Weiss was just sworn in as a judge for a position that was authorized in 1995 or 1996.

**Courts of Limited Jurisdiction:** Judge Shelton said the DMCJA is, as always, very busy and looking forward to spring. The biggest news he has is to introduce the Honorable Doug Haake, recently appointed to Bonney Lake Municipal Court. Mr. Haake will be a wonderful addition to the DMCJA. While AOC will experience a loss, the joy of having him on the bench overrides the loss of having him as staff to the DMCJA.

Other Business

**BJA Financial Report:** The ending balance of the BJA account for 2007 is just slightly over \$25,000 so there is no need in the short-term future to request dues. Generally, dues are not assessed on a scheduled cycle; rather they are assessed on an as-needed basis.

The meeting was adjourned.